

MEMORANDUM

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Pete Wilson
Governor

Cal/EPA

State Water
Resources
Control Board

901 P Street
Sacramento, CA
95814
Mail Code G-8
(916) 657-0660
FAX (916) 657-2388

to: All Regional Water Quality Control
Board Executive Officers

ORIGINAL SIGNED BY

FROM: Jesse M. Diaz, Chief
DIVISION OF WATER QUALITY

DATE: APR 21 1998

SUBJECT: STATE WATER RESOURCES CONTROL BOARD'S MAY 14, 1998
WORKSHOP -- CLEAN WATER ACT SECTION 303(d) LIST

SWRCB will receive public comments regarding the Federal Clean Water Act Section 303(d) list of State's impaired surface waters at the May 14, 1998 Workshop. The attached public notice requesting written comments no later than May 4, 1998 has been mailed to all interested parties. Based on the letters and inquiries we have received to date, it appears that this will be a controversial agenda item for the May 14, 1998 Workshop. We ask that RWQCB staff who compiled their Region's Section 303(d) list prepare responses to the written comments which SWRCB may receive prior to the Workshop. Attached are those comment letters that we have received for your Region's Section 303(d) list and we will continue to make the comment letters available to you as soon as we receive them.

The RWQCB staff should be prepared to mail out copies of your Region's Section 303(d) list submittal package if requested by interested parties. Further, we ask that RWQCB staff be present at the SWRCB Workshop to answer any questions dealing with the list.

Please call me at 916/657-0756 (CALNET 437-0756) if you have any questions on this subject. You may also call Michael Perrone, Chief of the Monitoring and Assessment Program, at 916/657-0660 (CALNET 437-0660).

Attachment(s)

cc: Fresno, Redding, and Victorville Offices

Bruce Gwynne, NCRWQCB
Tom Mumley, SFBRWQCB
Greg Bartow, SFBRWQCB
Angela Carpenter, CCRWQCB
Karen Worcester, CCRWQCB
Debbie Smith, LARWQCB

(Continued next page)

All Regional Water Quality Control
Board Executive Officers

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cc: (Continuation page)

Mark Smythe, LARWQCB
Sue Yee, CVRWQCB
Judy Unsicker, LRWQCB
Ray Lukens, CRBRWQCB
Hope Smythe, SARWQCB
Linda Pardy, SDRWQCB

bc: Walt Pettit
Executive Director

Dale Claypoole
Deputy Director

Barbara Evoy, OSC

SMA:doris:4/15/98, 4/17/98
:request. doc



Cal/EPA

State Water
Resources
Control Board

Division of
Water Quality

Mailing Address:
P.O. Box 944213
Sacramento, CA
94244-2130

901 P Street
Sacramento, CA
95814
(916) 657-0660
FAX (916) 657-2388



Pete Wilson
Governor

NOTICE OF PUBLIC WORKSHOP

CONSIDERATION OF CALIFORNIA'S LIST OF IMPAIRED SURFACE WATERS PURSUANT TO FEDERAL CLEAN WATER ACT SECTION 303(d)

Thursday, May 14, 1998 -- 9:00 a.m.

First-Floor Hearing Room
Paul R. Bonderson Building
901 P Street
Sacramento, California

NOTICE IS HEREBY GIVEN that public workshop will be held by the State Water Resources Control Board (SWRCB) to seek public comments on its proposed adoption of a statewide list of impaired surface waters pursuant to Federal Clean Water Act (CWA), Section 303(d). The SWRCB will not make any decision regarding the list at this workshop. The list will be adopted by the SWRCB at its May 27, 1998 regular Board meeting.

BACKGROUND

Section 303(d) of the CWA requires states to identify waters that do not meet applicable water quality standards with technology-based controls alone. Applicable standards include the designated beneficial use and the adopted water quality objective. The list must include a description of the pollutants causing impairment and a priority ranking of the waters for purposes of developing Total Maximum Daily Loads (TMDL). The TMDL is the maximum load of a pollutant that can be discharged from point and nonpoint sources without exceeding water quality standards. States are required to submit the Section 303(d) list and TMDL priorities to U.S. Environmental Protection Agency (U.S. EPA) for approval in even-numbered years.

DEVELOPMENT OF THE 1998 SECTION 303(d) LIST WITH TMDL PRIORITIES

SWRCB guidance for the 1998 water quality assessment update outlined the procedures for each of the nine Regional Water Quality Control Boards (RWQCB) to conduct its update of the Section 303(d) list and TMDL priorities. The Section 303(d) Listing Guidelines for California, which were developed by a task force of SWRCB, RWQCB and U.S. EPA staff, included listing and delisting factors, priority ranking, targeting and scheduling, and public notice procedures. The RWQCBs prepared their Section 303(d) list and TMDL priorities based upon review of current monitoring information, solicitation of information from other state and federal agencies, and comments received from interested parties at public meetings. SWRCB staff has compiled a statewide Section 303(d) list and TMDL priorities based on the nine RWQCBs' adopted lists.

SUBMISSION OF COMMENTS

Written comments on the statewide Section 303(d) list, with TMDL priorities, must be submitted by fax or mail, post marked no later than May 4, 1998, to:

Michael Perrone/Division of Water Quality
State Water Resources Control Board
P.O. Box 944213
Sacramento, CA 94244-2130
Fax: (916) 657-2388

Commenters are requested to restrict their comments to comments that they made before the RWQCB. The SWRCB will not, without good cause, consider comments not previously made to the RWQCB. To show good cause a commenter must demonstrate that the comments were either improperly excluded by the RWQCB or that the comments could not have been presented to the Regional Board.

SWRCB APPROVAL PROCESS

SWRCB will receive comments on the statewide Section 303(d) list with TMDL priorities at its May 14, 1998 regular Board Workshop. Interested parties may summarize their written comments and present any additional pertinent remarks at the Workshop. Time limitations may be imposed on oral presentations. Persons with similar views are encouraged to make joint presentations. The actual approval of the statewide lists will take place at the SWRCB's May 27, 1998 regular Board meeting at the Bonderson Building in Sacramento. SWRCB will subsequently submit the approved statewide Section 303(d) list to U.S. EPA for their approval.

PARKING AND ACCESSIBILITY

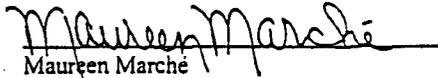
The Bonderson Building, site of the SWRCB Workshop, is accessible to persons with disabilities. The building and public parking locations are indicated on the map shown below.

REQUEST FOR THE SECTION 303(d) LIST WITH TMDL PRIORITIES AND OTHER INFORMATION

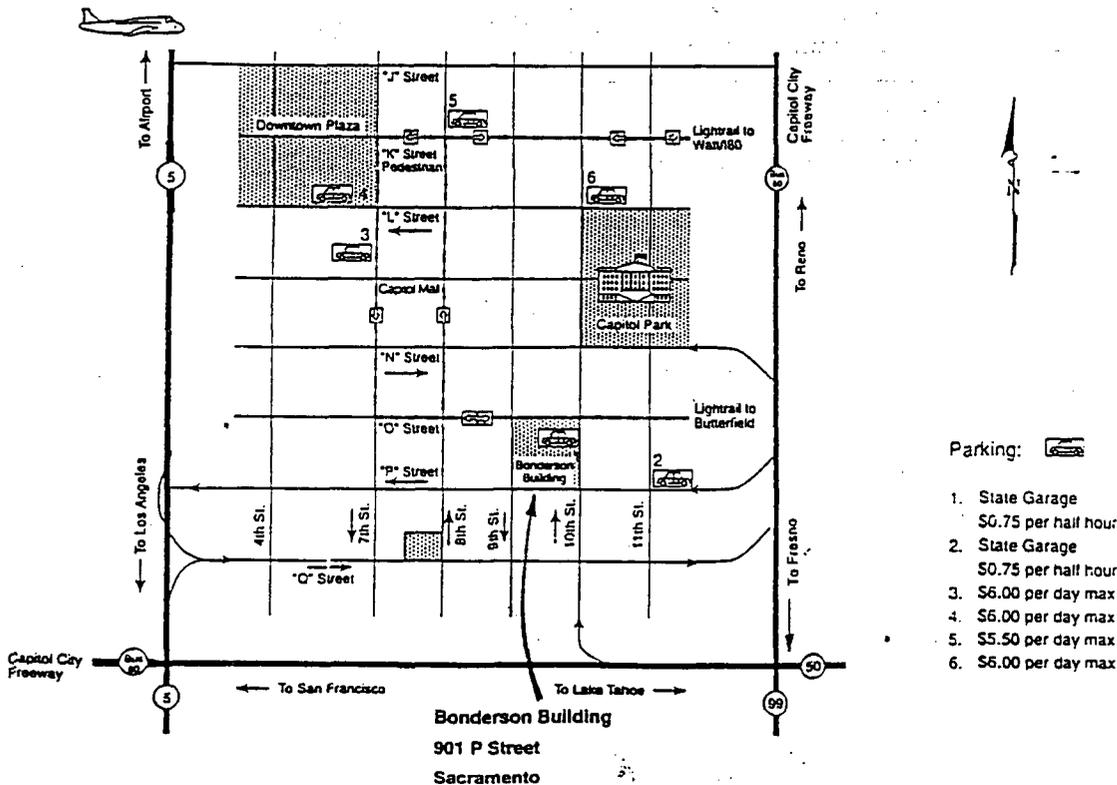
Please call Jan Hisao at (916) 657-1114 to receive a copy of the Section 303(d) list with TMDL priorities. In order to conserve energy and resources, please specify the RWQCB or the water body of your interest.

The SWRCB workshop and meeting agendas and this item can be accessed through the Internet at the SWRCB's web site (<http://www.swrcb.ca.gov>). To receive copies of these documents through the mail, please call Maureen Marché at (916) 657-0990.

Please call Michael Perrone, Chief of the SWRCB's Monitoring and Assessment Program, at (916) 657-0660 for further information.


Maureen Marché
Administrative Assistant to the Board

Date: April 14, 1998



BY FAX AND U.S. MAIL

March 31, 1998

Walt Petit, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812 - 0100

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COMMUNITIES FOR A
BBETTER
ENVIRONMENT



RECEIVED

Re: Request for explanation of State Board process under Clean Water Act section 303(d)

APR - 1 REC'D

Dear Mr. Petit:

4-6 WGP
EXECUTIVE OFFICE

CBE's members have a vital interest in protection of San Francisco Bay and CBE is a founding member of the California Zero Dioxin Exposure Alliance. We write to ask for a clear written explanation of the State Board's process for addressing public concerns and evidence under section 303(d) of the Clean Water Act, as discussed below.

Control to JMD

This explanation is necessary because serious flaws in the State's public process under section 303(d) have restricted public participation. The S.F. Bay Regional Board's only written advance public notice of its 303(d) action did not contain the word "dioxin" despite obvious public concern and was an inadequate public notice (see the January 7, 1998 staff report). Regional Board staff declined our requests for a meeting to discuss the issue in advance of the February 18, 1998 hearing for Board action. New written rationale dated February 9, 1998 was not made available to us until this February 18th hearing. At the hearing the Regional Board incorporated evidence (see Item 12) into the record of its 303(d) decision that it agrees supports a "high priority for immediate action" on dioxin, yet contradicted this evidence in its decision without adequate explanation.

*cc WRA
DC*

Further, we have not received the Regional Board's full written rationale for its decision, and it remains unclear whether our supplemental comments and the comments of the Alliance were made available to the Regional and State Boards and properly considered. Nor has Regional Board staff agreed to discuss the matter with us after the February hearing as the Regional Board had suggested at its hearing. Finally, we were consistently discouraged from seeking State Board review of this Regional Board decision until March 27, 1998. Then, just three business days before the April 1, 1998 deadline for state 303(d) submittal to USEPA, we were informed of a "management decision" to complete a substantive review of these regional board actions. We have yet to be told exactly how we may participate in this new review process.

Our right to participate in this critically important water quality planning process at the State level has been restricted unfairly. Accordingly, we respectfully request a written explanation which answers three process questions:

- When is your deadline for public comment on your review of Regional Board decisions under section 303(d)?
- Will you supply to us the complete written record of the Regional Board's rationale for its action under section 303(d) at least 30 days in advance of your comment deadline?
- When will you schedule any workshops and hearings to consider these decisions and comments, and when will you submit your final 303(d) decision to the USEPA?

Thank you in advance for your help with this public process problem. As the deadline for action under section 303(d) is tomorrow, we respectfully request this process information as soon as practicable. I look forward to working with you and your staff for needed improvements in water quality and health protection through this planning process.

Sincerely,

[Signature]
Greg Karras
Senior Scientist

cc: USEPA

500 Howard Street, Suite 506 • San Francisco, CA 94105 • (415) 243-8373

In Southern California: 605 W. Olympic Blvd., Suite 850 • Los Angeles, CA 90015 • (213) 486-5114

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March 20, 1998

John J. Lurmon
Direct Dial 619/515-3217
Internet: jjl@procopio.com

**VIA FACSIMILE AND CERTIFIED
MAIL, RETURN RECEIPT REQUESTED**

John Caffrey, Chairman
California State Water Resources Control Board
901 P Street
Sacramento, CA 95814

Re: San Diego Unified Port District's Petition for Review of the Clean Water Act
Section 303(d) List Adopted by the California Regional Water Quality Control
Board, San Diego Region

Dear Mr. Caffrey:

On March 12, 1998, the San Diego Unified Port District (the "District") filed a petition with the California State Water Resources Control Board (the "State Board") requesting that it review the decision of the California Regional Water Quality Control Board, San Diego Region (the "Regional Board") to adopt Resolution 98-12, approving the Regional Board's proposed list of impaired water bodies pursuant to Clean Water Act Section 303(d). This list was adopted by the Regional Board on February 11, 1998 and submitted to the State Board for its review and approval.¹

Under the Clean Water Act, the State Board must submit its final Section 303(d) list to the United States Environmental Protection Agency ("EPA") by April 1, 1998. This deadline gives the State Board a very short period of time to review and submit to EPA the various 303(d) lists prepared by the nine regional boards in California. In light of these time constraints, the District specifically requested in its March 12, 1998 petition that its appeal be heard on an expedited basis. However, even an expedited hearing may not allow the State Board to consider the merits of the District's appeal prior to the April 1, 1998 submission deadline. Therefore, the District requests that the State Board ask EPA to extend by at least 45 days the time in

¹The District's Petition appeals the February 11, 1998 action by the Regional Board and, in the alternative, requests de novo review of the Section 303(d) List by the State Board.

LAW OFFICES OF

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP

John Caffrey, Chairman

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March 20, 1998

which the State Board must submit the Section 303(d) list for the San Diego Region. The District is informed and believes that EPA has granted a similar extension of time to the State Board with regard to the 303(d) list being prepared by the Los Angeles Regional Board.

Please notify us at your earliest convenience if the State Board will or will not request a 303(d) filing extension from EPA. Thank you for your continued attention to this matter.

Very truly yours,



John J. Lormon

JJL/DPH:mkk

cc: Craig Wilson, Counsel for California State Water Resources Control Board
David Smith, United States Environmental Protection Agency, Region IX
David Merk, San Diego Unified Port District